IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-12-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.13247 of 2007
and
MP No.1 of 2007

Noorjehan Razack .. Petitioner

vs

1.Inspctor General of Registration
Santhome High Road
Chennai
2.The District Registrar
Kodambakkam
Chennai 600 024. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the respondents to hand over the settlement deed presented on 13.9.2000 for registration which was received by the 2nd respondent in Receipt No.808829 dated 13.9.2000.

For Petitioner : Mr.Kamalanathan

For Respondents : Mr.S.Gopinathan
Additional Government Pleader

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ORDER

Seeking a writ of mandamus to direct the respondents to hand over the settlement deed presented on 13.9.2000, for registration, which was received by the 2nd respondent in Receipt No.808829 dated 13.9.2000, this writ petition has been brought forth by the petitioner.

2.The affidavit in support of the petition is perused. The Court heard the learned Counsel on either side.

3.The petitioner who seeks the relief, has come forward to state that she placed a settlement deed on 13.9.2000 which she executed as owner of the property bearing Door No.17/1, Vasudeva Puram, West Mambalam, Madras, for the purpose of registration; that by the said deed, she settled the

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property for her three daughters; that when it was presented, the second respondent who received the document, issued a receipt on the very day, and she was also informed that the instrument was undervalued and unstamped also, and hence, the document could not be registered, and she was to pay more stamp duty; that she was also informed that such registration could be made only after the inspection of the property or on payment of the stamp duty as demanded on that day; that there was no inspection of the property; that following the same, number of requests and reminders were made, but of no avail; that in October 2006, when the second respondent was contacted by one of the daughters of the petitioner, she was informed that the original settlement deed was found missing in the office, and it would take some time for re-tracing the document; that despite number of attempts made, till this date, no reply is coming forward, and under the circumstances, the petitioner was constrained to file this petition before this Court.

4.The Court heard the learned Counsel for the petitioner and also the learned Additional Government Pleader on the last hearing. After doing so, this Court was of the opinion that it was a fit case where a direction has got to be given to the District Registrar namely the second respondent herein, for the production of necessary documents available pertaining to such settlement deed. Now, on instructions, it is represented by the learned Additional Government Pleader that originally, the document was placed on 13.9.2000, and the settlement deed was actually registered; but, the deficit stamp duty was noticed; that under the circumstances, the petitioner was informed to make payment of the same; but, it was not paid; that under the circumstances, the matter has got to be enquired; that when the matter was pending so, the original settlement deed was found missing; that now, at this juncture, what is now produced before the Court is not the original settlement deed; that when the deed was placed before the authority for registration, it was filed in triplicate; but, the original deed is not found; that the other two parts are available, and they are placed before the Court. The learned Additional Government Pleader would further add that in the instant case, the document was actually registered on 13.9.2000; that the document now produced before the Court, would show the same; that under the circumstances, it is a case where the stamp duty has got to be paid on the date of registration; that more than lakh of rupees is deficit; that necessary enquiry has got to be made; and that if the remainder of the stamp duty is paid, the available parts could be returned to the party.

5.After looking into the materials available, this Court is of the considered opinion that the contention put forth by the petitioner that the document was not registered on 13.9.2000 has got to be discountenanced. A perusal of the document now produced, would clearly indicate that the document was actually registered on the very day. Now, it is also brought to the notice of the Court that the original deed is not available. But, at the same time, when it was placed, it was in triplicate. The other two parts are available. According to the petitioner's Counsel, she would be satisfied, if necessary endorsement is made by the first respondent who is the higher authority which, according to the second respondent, could be done. Under the circumstances, this Court is of the view that necessary enquiry has got to be made for the payment of the stamp duty, within a period of eight weeks herefrom. On the deficit stamp duty being paid, the second respondent is directed to return either of the parts which were actually placed by the party with

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the original signature on 13.9.2000, for the purpose of registration, along with the endorsement of the first respondent. Accordingly, this writ petition is ordered. No costs. Consequently, connected MP is closed.

nsv/

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1.The Inspctor General of Registration
Santhome High Road, Chennai

2.The District Registrar
Kodambakkam
Chennai 600 024.

+1 cc to The Government Pleader Sr.No.74559.

+1 cc to Mr.M.Kamalanathan, Advocate Sr.No.74205.

SSK(CO)
DCP/26.12

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